

SENATE BILL 2445

By Roberts

AN ACT to amend Tennessee Code Annotated, Title 63
and Title 68, relative to the voluntary provision of
health care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following
as a new chapter:

68-61-101. As used in this chapter:

(1) "Contract" means an agreement executed under § 68-61-102(a);

(2) "Department" means the department of health;

(3) "Government contractor" means the department, a county health department,
a district health department, a hospital owned and operated by a governmental entity,
and any other entity authorized by the department to operate as a government
contractor;

(4) "Healthcare provider" or "provider" means:

(A) A healthcare professional licensed, registered, or certified pursuant to
title 63, including a student enrolled in an accredited program for licensure,
registration, or certification as a healthcare professional;

(B) A facility, as that term is defined in § 68-11-201;

(C) A health maintenance organization, as that term is defined in § 56-
32-102; and

(D) A free health clinic, as that term is defined in § 63-1-201;

(5) "Low-income patient" means:

(A) A person eligible for services under the TennCare program; or

(B) A person who is without health insurance and whose annual household income does not exceed two hundred percent (200%) of the federal poverty level; and

(6) "Volunteer healthcare services" means the provision of health care without charge to the recipient or to third party.

68-61-102.

(a) A healthcare provider may enter into a contract with a government contractor to provide volunteer healthcare services to low-income patients in accordance with this chapter and rules promulgated by the department under § 68-61-110.

(b) A healthcare provider that enters into a contract:

(1) Shall be deemed to be an agent of the state and shall be entitled to the state's sovereign immunity while acting within the scope of the provider's duties under the contract, regardless of whether a patient treated is later found to be ineligible for treatment under this chapter; and

(2) May not be named as a defendant in any action arising out of the provision of volunteer healthcare services under the contract.

(c) A contract entered into by a healthcare provider shall cover the employees and agents of the healthcare provider. The employee or agent shall not be required to enter into a contract under subsection (a) for the purposes of delivering volunteer healthcare services as the employee or agent of the healthcare provider.

(d) A government contractor that is a healthcare provider is not required to enter into a contract for the purposes of providing volunteer healthcare services under this chapter.

68-61-103.

A healthcare provider who is required to meet continuing education requirements under the provider's practice act may receive credit for one (1) hour of continuing education for each hour of volunteer healthcare services provided under this chapter, not

to exceed eight (8) hours of credit for any applicable period of licensure or certification. The provider's licensing board shall accept hours of credit earned under this section for the purpose of compliance with any applicable continuing education requirements for the provider.

68-61-104. A contract shall contain the following terms and conditions:

- (1) The contract applies only to volunteer healthcare services delivered by a healthcare provider to eligible low-income patients;
- (2) The healthcare provider may not be named as a defendant in any action arising out of the provision of volunteer healthcare services under the contract;
- (3) The healthcare provider shall be entitled to the state's sovereign immunity in any action arising out of the provision of volunteer healthcare services under the contract, regardless of whether a patient treated is later found to be ineligible for treatment under this chapter;
- (4) The government contractor shall have the right to terminate or dismiss the healthcare provider, or to terminate the contract with the healthcare provider, for good cause;
- (5) If the government contractor intends to terminate the contract, the government contractor shall provide written notice to the healthcare provider of its intent to terminate the contract, including the grounds for termination, at least five (5) business days before the date of termination;
- (6) The government contractor shall be entitled to access the healthcare records of any low-income patient served by the healthcare provider under the contract, upon receiving written authorization from the low-income patient authorizing the release of the records to the department;

(7) The healthcare provider shall report adverse incidents and information on treatment outcomes to the government contractor with respect to the treatment of low-income patients under the contract. If the incident involves a licensed or certified healthcare provider, the healthcare provider shall report the incident to the appropriate regulatory authority for review to determine whether the incident involves conduct by the provider that may subject the provider to disciplinary action;

(8) Any medical records and personal identifying information of low-income patients in the possession of the government contractor shall be confidential and not subject to the open records law, compiled in title 10, chapter 7;

(9) The government contractor or healthcare provider shall select and refer low-income patients for treatment under the contract. If a low-income patient requires emergency care, the patient does not need to be referred before receiving treatment; provided, that the government contractor or healthcare provider shall refer the low-income patient for treatment no later than forty-eight (48) hours after the commencement of treatment, or no later than forty-eight (48) hours after the patient has the capacity to consent to treatment, whichever occurs later; and

(10) The healthcare provider is subject to supervision and inspection by the government contractor and the department.

68-61-105. A healthcare provider shall provide written notice to each low-income patient to which volunteer healthcare services are provided under this chapter, or to the patient's legal representative, and shall obtain written acknowledgement from the patient or representative, that the healthcare provider and any employee or agent of the provider is an agent of the state with respect to the services provided, and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the healthcare provider, or any employee or agent of the provider, is by the commencement of an action under the Tennessee

Governmental Tort Liability Act, compiled in title 29, chapter 20. A healthcare provider may comply with the notice requirements of this section by posting the notice in a conspicuous location that is readily visible to any person visiting the healthcare provider's place of business.

68-61-106. The department shall establish a quality assurance program to monitor the provision of volunteer healthcare services under this chapter.

68-61-107.

(a) The department shall annually prepare a report:

(1) Summarizing the efficacy of access and treatment outcomes with respect to the provision of volunteer healthcare services under this chapter; and

(2) Including statistics for all pending and paid claims, and the costs associated with defending and handling all claims brought against healthcare providers.

(b) The department shall submit the report prepared under subsection (a) to the speaker of the senate, the speaker of the house of representatives, the minority leaders of both houses of the general assembly, the chair of the health and welfare committee of the senate, and the chair of the health committee of the house of representatives, by no later than January 1 of each year.

68-61-108. The department shall maintain on its web site a list of all healthcare providers authorized to provide volunteer healthcare services under this chapter, including each provider's hours of operation, number of patient visits, and the services provided.

68-61-109. Government contractors, other than the department and any employee of the department, are responsible for their own costs and attorney's fees for malpractice litigation arising out of the provision of volunteer healthcare services under this chapter.

68-61-110. The department shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the purposes of implementing this chapter.

SECTION 2. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2016, the public welfare requiring it.